



U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
WASHINGTON, DC 20410-5000

OFFICE OF PUBLIC AND INDIAN HOUSING

JUL 02 2009

Clarification on Income Eligibility Guidelines for Pre-disaster Multifamily Residents to Tenant Protection Vouchers (TPV)

Dear Executive Director:

The purpose of this letter is to clarify the income eligibility determination guidelines used for families that resided in certain Office of Multifamily Housing (OMH) properties at the time of Hurricane Katrina or Rita and have been referred to public housing agencies (PHAs) to be issued tenant protection vouchers. Please be aware that this process is separate and distinct from the DHAP-to-HCV conversion process currently taking place. This process is only for pre-disaster multifamily residents who resided at multifamily properties listed below at the time of Hurricane Katrina or Rita.

As stated in the Tenant Protection Voucher Process guidance (attached), PHAs are responsible for determining families' income eligibility under the applicable income limits for the areas in which families will receive the tenant protection vouchers. Different income limits are applicable, depending on the type of Housing Conversion Action. For Section 8 project-based opt-outs and contract terminations, the family must qualify as a low-income family. However in the case of a prepayment, the family must be 1) a low-income family; 2) a moderate-income elderly or disabled family; or 3) a moderate-income family in a low vacancy area (the area under consideration is the area where the family has indicated it wishes to receive the voucher, i.e., the PHA's jurisdiction). PHAs determine income eligibility using the definitions for low-income and moderate-income families found in PIH Notice 2001-41, Part II, Section A(2)(b)(1). For your convenience, the definitions are below.

Low-income Family: A low-income family is a family whose annual income does not exceed 80 percent of the median income for the area as determined by HUD.

Moderate-income Family: A moderate-income family is a family whose annual income is above 80 percent but does not exceed 95 percent of the area median income as determined by HUD.

The PHA will use the family's present income to determine income eligibility. If the family is over-income, the PHA must ask the family if they have experienced an increase in income since the time of the eligibility event (i.e., prepayment, opt-out, Section 8 project-based contract termination). If the answer is yes and the family is able to document their income at the time of the eligibility event, the PHA will re-determine the family's income eligibility based on the income at the time of the eligibility event.

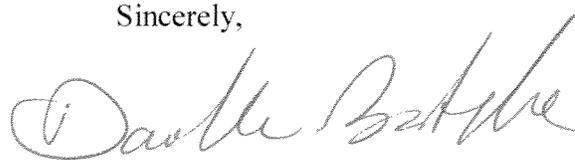
If a PHA has determined a family ineligible based on income using the incorrect area median income (AMI) limits, the PHA must contact the family and re-determine its income eligibility for a TPV as soon as possible. In the event the family is determined eligible for a TPV, the PHA must follow the same process as detailed in the letter and Tenant Protection Voucher Process guidance you received from the HUD Field Offices for submitting a form HUD-52515 for all eligible families. In the event that a family is not income eligible based on the correct AMI, the PHA must give the family an opportunity for an informal review in accordance with 24 CFR 982.554 and the PHA's Administrative Plan.

Hurricane Katrina/Rita TPV Multifamily Properties

1.	Curran Place	Termination
2.	Frenchman's Wharf I	Termination
3.	Frenchman's Wharf II	Termination
4.	Forest Park	Prepayment
5.	Dauphine Apartments	Opt-out
6.	Haydel Heights	Opt-out
7.	Josephine Apartments	Opt-out
8.	Tanglewood I	Prepayment
9.	Tanglewood II	Prepayment
10.	Walnut Square	Prepayment
11.	Gulf Oaks	Prepayment
12.	Redwood Park I	Prepayment
13.	Redwood Park II	Prepayment

HUD appreciates your diligence as we work to transition all eligible families to the HCV program.

Sincerely,



Danielle L. Bastarache
 Director
 Office of Housing Voucher Programs

Attachment

Tenant Protection Voucher Process

Since many of the families that qualify for voucher assistance by virtue of the owner prepayment or the project-based contract termination no longer live in the PHA jurisdiction where the impacted project is located, HUD contacted the family to determine where the family first wishes to receive voucher assistance. Unlike a typical Housing Conversion Action, HUD is inviting PHAs to administer voucher assistance on the basis of where the families indicated they wished to first receive voucher assistance, rather than on the location of the impacted property.

HUD Field Offices are in the process of inviting PHAs to administer the tenant protection voucher assistance based on the results of the family responses. Once your PHA accepts this invitation, HUD will send you a spreadsheet that identifies the potentially eligible families assigned to your PHA. The spreadsheet also provides contact information for the family, the name of the project under which the family qualifies for the tenant protection voucher, and the applicable income limit (based on the type of the Housing Conversion Action). In addition, the spreadsheet also identifies if the family is receiving or benefiting from another type of assistance (e.g. public housing, DVP, or Disaster Housing Assistance Program (DHAP)). The family must relinquish the other form of assistance at the time the family is admitted to the Housing Choice Voucher (HCV) program.

Tenant Eligibility and Income Eligibility Determination

Please begin contacting the families on the attached spreadsheet immediately. Families must be determined income eligible under the applicable income limits for the area in which the family will receive the TPV.

For families affected by a prepayment, the family must be: 1) a low-income family; 2) a moderate-income elderly or disabled family; or 3) a moderate-income family in a low-vacancy area (the area under consideration is the area where the family has indicated they wish to receive the voucher, i.e., the PHA's jurisdiction). The PHA uses the family's present income to determine income-eligibility. If the family is over-income, the PHA must ask the family if they have experienced an increase in income since the time of the eligibility event (i.e., prepayment, opt-out, Section 8 project-based contract terminated). If the answer is yes and the family is able to document their income at the time of the eligibility event, the PHA will re-determine the family's income eligibility based on the income at the time of the eligibility event.

If the family is currently receiving another form of assistance (e.g. public housing, DVP) and an income reexamination has occurred within the past six months, the PHA may determine the family's income eligibility using this information as long as the family certifies that its income has not changed since the reexamination was completed. In all other cases, the PHA must complete an examination of family income to determine if the family will be eligible to receive a TPV.

The PHA must explain to the families that the voucher assistance is only made available to families that the PHA determines meet the eligibility requirements for the HCV program. If a family is not eligible for a TPV, and is currently receiving another form of assistance, the family

may remain on the other type of assistance. Note that if a PHA determines that a family is not income eligible for a TPV, the PHA must give the family an opportunity for an informal review in accordance with 24 CFR 982.554 and the PHA's Administrative Plan.

Voucher Issuance and Lease-up

The PHA may begin issuing vouchers as soon as a family has been determined eligible for HCV assistance. HUD encourages PHAs to issue the vouchers as quickly as possible, particularly for families receiving DVP or DHAP assistance. Upon issuance of the TPV, the family must lease-up in accordance with the HCV program regulations and the PHA's Administrative Plan.

For eligible families currently receiving another form of HUD assistance administered by your PHA, your agency must enter an end of participation (EOP) date in the appropriate system (DIS or PIC) at the time the family is admitted to the HCV program. When entering an EOP in the DIS, please enter into the comments section the reason for the EOP: "Obtained Permanent Housing." For families receiving other HUD assistance from another PHA, your agency must contact that PHA in a timely manner to notify the PHA that the family is being admitted to the HCV program and the effective date. This is necessary so the other PHA can terminate the current assistance and record the EOP in DIS and/or PIC.

DVP Families Remaining In-Place

If a family receiving DVP assistance from your agency wants to use the TPV to continue to reside in the same unit and the owner agrees, the transition to HCV assistance from DVP is completed in the following manner:

- In cases where the PHA executed "Part D of the Housing Assistance Payments (HAP) Contract: Disaster Voucher Program Addendum," the owner must be notified that Part D of the HAP contract will automatically expire when the family is admitted to the HCV program. The HAP contract [HUD-52641] and the lease may remain in effect, as long as the lease term has not expired, or the landlord is willing to renew the lease. With regard to Housing Quality Standards (HQS) inspections, so long as the HAP contract and lease remain in effect for the unit, the PHA may, but is not required to, conduct an additional HQS inspection of the unit prior to the annual inspection. However, an HQS inspection is required at the time a new HAP contract and lease become effective. Units must be in full HQS compliance as found in the HCV program regulations at 24 CFR 982.401.
- However, if an "Amendment to Katrina Disaster Rent Subsidy Contract" and an "Amendment to KDHAP Lease Addendum" are in effect for the family in question, the PHA and owner must execute a new HAP contract, and the owner and tenant must execute a new lease, which includes the HUD-required Tenancy Addendum, to transition the family to the HCV program. An HQS inspection of the unit is also required. Units must be in full HQS compliance as found in the HCV program regulations at 24 CFR 982.401.